

### **REMARKS**

Applicants appreciate the consideration of the present application afforded by the Examiner. Claims 1-11 and 13-44 remain pending. Claims 1, 4, 18, 29, 30, and 41 are independent. Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

#### ***Claim Objections***

The Examiner has objected to claim 30 for allegedly lacking antecedent basis. Applicants have addressed this issue through this Reply and respectfully request that the objection be withdrawn.

#### ***35 U.S.C. § 112, 2nd Paragraph Rejection***

Claims 14-15 and 18-41 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Although Applicants do not necessarily agree with all of the Examiner's assertions of indefiniteness, Applicants have amended the claims to address the stated antecedent basis issues as well as to address the Examiner's reservations regarding claims 14 and 15.

More specifically, claims 14 and 15 have been amended to recite, *inter alia*, "when a portion of said contents cannot be appropriately reproduced in the reproduction mode that has been switched by said control part, said control part controls the switching between said reproduction modes during reproduction of a preceding portion prior to said portion that cannot be appropriately reproduced in said contents reproduction part". Applicants submit that the claims definitively recite that the switching of reproduction modes is controlled during reproduction of a portion that precedes the portion that cannot be appropriately reproduced.

Applicants respectfully request that the §112, second paragraph rejection of claims 14 and 15 be withdrawn.

***Claim Rejections - 35 U.S.C. §101***

Claims 18-29 stand rejected under 35 U.S.C. § 101 as allegedly being directed toward non-statutory subject matter.

Applicants traverse the rejection. Through this Reply, Applicants have amended independent claims 18 and 29 to address the Examiner's allegations that the claims are non-statutory. Claims 18 and 29 as amended definitively recite that one or more steps of the claimed process are performed using a processor. As such, Applicants submit that the claims as amended are clearly tied to a statutory category and are thus statutory subject matter under § 101.

Applicants respectfully request that the §101 rejection of claims 18-29 be withdrawn.

***Claim Rejections - 35 U.S.C. §§ 102 and 103***

Claims 1-8, 13-20, 22-25, 29-32, 34-37, and 41-43 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,831,765 to Nakayama et al. ("Nakayama"). Claim 44 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakayama in view of U.S. Patent No. 4,600,919 to Stern ("Stern"). Claims 9-11, 21, 26-28, 33, and 38-40 stand rejected under § 103(a) as allegedly being unpatentable over Nakayama in view of U.S. Patent No. 6,798,406 to Jones ("Jones").

Applicants submit the Examiner has failed to establish a *prima facie* case of anticipation and/or obviousness and traverse the rejections.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. §102, the cited reference must teach or suggest each and every element in the claims. *See M.P.E.P. §2131; M.P.E.P. §706.02*. Accordingly, if the cited reference fails to teach or suggest one or more claimed elements, the rejection is improper and must be withdrawn. For a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

Nakayama discloses a 2D/3D compatible display comprising a light separating means 110 and diffusing effect panel 106, which is controlled to create separate images for the left and right eyes of the user. *See Figures 1-3; Abstract.* Nakayama discloses creating the 3D images by selectively applying voltage to electrodes 160A based on information showing which of the electrodes should be given voltage. Nakayama describes this information as “information of barrier positions”, and is effectively a control signal which drives the electrodes to position the diffusion barriers to create a region on the display screen that will show a three-dimensional display. *See Figures 4, 5A, 5B and 7; col. 8, line 30 – col. 9, line 12.*

In the Office Action, the Examiner relies upon Nakayama’s information of barrier positions to allegedly anticipate the recognition part, determination part, and control part of the claimed invention. *See Office Action, pages 8-11.* This citation of Nakayama describes coding the information of barrier positions and providing the information to the image display. Then, the interface circuit 173 of the image display decodes the code and gives on/off information for each of the electrodes 160A to the driving circuit 172, which then controls the voltage supplied to the electrodes based upon the on/off information. The information of barrier positions supplied to the image display controls the display to create a region for 3D image reproduction. However, the information of barrier positions **cannot** anticipate all of the features of the claimed invention.

Independent **claim 1** recites, *inter alia*, “a recognition part which recognizes attributes of the one or more objects comprising a frame of the contents by analyzing object data associated with the one or more objects” and “a determination part that determines the reproduction mode in which to reproduce the frame of the contents on the basis of the attributes of the one or more objects that have been recognized in said recognition part”. (Emphasis added). In other words, the present application is directed to a contents reproduction apparatus which can reproduce contents from contents data in a plurality of reproduction modes including two-dimensional and three-dimensional display. Importantly, the contents data comprises at least object data of one or more objects comprising frames of the contents. This means that the contents which are to be reproduced by the reproduction apparatus have data relating to frame of the contents, wherein the

frames have one or more objects that are represented by object data. As claimed, the recognition part recognizes attributes of the objects in the frame of the contents by analyzing the object data.

Nakayama cannot show any such recognition of object attributes as claimed. In contradistinction, Nakayama's "information of barrier positions" is a predetermined control signal that is not associated with any data regarding an object within the image signal to be reproduced. For example, Fig. 5A clearly shows an image signal separate from the information of barrier positions. Fig. 5B shows that the image signal proceeds to image producing portion 174 while the information of barrier positions proceeds directly to the driving circuits for control of the electrodes 160A. Fig. 7 clearly shows that although the image to be reproduced may be associated with the information of barrier positions, said information is merely a predetermined control signal accompanying the image signal. This is not the same as the claimed invention, whereby a recognition part recognizes attributes of one or more objects which comprise a frame of the contents by analyzing the object data associated with the objects.

Furthermore, Nakayama cannot show determining a reproduction mode based on the recognition of attributes of the one or more objects comprising a frame of the contents. As clearly shown in Nakayama, the information of barrier positions is used to directly control and drive the electrodes which position the diffusion barriers to create the three-dimensional region on the display. Since this information is effectively a control signal for the diffusion barriers, Nakayama has no need for any recognition of attributes of the contents that are to be displayed, nor any need to determine of a reproduction mode in which to reproduce the contents. Because Nakayama relies on a predetermined control signal, the reference can be said to teach away from the present invention.

Based on the foregoing, Applicants respectfully submit that at least because Nakayama fails to teach or suggest each and every claimed element, independent claim 1 is distinguishable from the prior art. Dependent claims 2 and 3 are likewise distinguishable at least due to their dependence from independent claim 1.

Independent **claim 4** recites, *inter alia*, "an acquisition part which acquires information concerning the reproduction of said contents from at least the object data of one or more objects comprising the frame of said contents data" and "a determination part that determines the

reproduction mode in which to reproduce the frame of said contents on the basis of said information concerning the reproduction mode of said contents that has been acquired by said acquisition part”. Similarly as with respect to claim 1 as previously discussed, Nakayama cannot anticipate the acquisition part and determination part as recited in claim 4. The information of said barrier positions disclosed by Nakayama is not acquired from the object data comprising a frame of the contents, nor is a reproduction mode determined on the basis of the information acquired by said acquisition part. Accordingly, independent claim 4 is distinguishable from Nakayama. Dependent claims 5-17 are likewise distinguishable at least due to their dependence from independent claim 4.

Independent **claim 18** recites a contents identification method comprising at least a recognition step and a determination step comparable to the features as discussed above with respect to claim 1, and is likewise distinguishable from Nakayama for at least the reasons discussed above with respect to claim 1. Dependent claims 19-28 are also distinguishable at least due to their dependence from independent claim 18.

Independent **claim 29** recites, *inter alia*, “switching, using a processor, the reproduction mode of the reproduction apparatus for reproducing the frame of said contents on the basis of said information concerning said reproduction mode that has been added to said contents data, wherein said information is based on attributes of the object data of the one or more objects comprising the frame in the contents”. Similarly, as with respect to claim 1 discussed above, Applicants respectfully submit that Nakayama cannot anticipate the at least above feature of claim 29. Again, Nakayama fails to anticipate switching a reproduction mode based upon information regarding attributes of object data of one or more objects comprising a frame of the contents to be reproduced. Accordingly, claim 29 is distinguishable from the prior art.

Independent **claim 30** is directed to a computer readable medium storing a contents identification program for performing a method of the present application, and is distinguishable from Nakayama for at least the reasons as applied above with respect to independent claim 1. Dependent claims 31-40 are likewise distinguishable at least due to their dependence from claim 30.

Independent **claim 41** is directed to a computer readable medium storing a contents reproduction program that performs a method comparable at least to the features as discussed above with respect to independent claim 29, and is distinguishable at least for the reasons discussed above with respect to the other independent claims.

Based on the foregoing Applicants respectfully submit that claims 1-11 and 13-41 are patentable over the applied prior art. The deficiencies of the Nakayama reference have been clearly described above. Stern and the Jones references have not been, and indeed cannot be, relied upon to cure the aforementioned deficiencies of Nakayama. Accordingly, Applicants respectfully submit that the 35 U.S.C. §102(b) and §103(a) rejections of claims 1-11, and 13-41 be withdrawn.

### **CONCLUSION**

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Notice of same is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John R. Sanders (Reg. No. 60,166) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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